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21 September 1984

MEMORANDUM FOR: See Distribution

FROM:

Deputy Chief, Legislation Division
Office of Legislative Liaison

SUBJECT: FOIA Update

1. As most of you know, the House overwhelmingly passed our FOIA legislation, H.R. 5164, on 19 September by a vote of 369:36. This is the bill as amended by the House Government Operations Committee (HGOC). The bill had originally been scheduled for floor consideration on 10 September but a postponement was agreed to pursuant to a request by Representative Ted Weiss (D., NY). This postponement also gave the Administration the time it needed to determine its position on the legislation. The Department of Justice opposed our bill because of the addition of the Privacy Act "(b)(3)" amendment by HGOC. On 14 September the Administration issued its statement of support for enactment of our bill.

2. I have attached the following items for your information which, along with the HPSCI report and hearing print (previously distributed), will constitute the legislative history for our bill:

- (1) the printed transcript of the hearing held 10 May 1984 before the HGOC Subcommittee on Government Information, Justice, and Agriculture (for our testimony see pages 11-37);
- (2) the report filed by the full HGOC on H.R. 5164, as amended by the Subcommittee and favorably voted on by the full HGOC;
- (3) the floor statements made concerning H.R. 5164 on 17 September; and
- (4) the amended version of H.R. 5164 as passed by the House on 19 September.

3. The only vote against our bill in HGOC was cast by Representative Weiss. His position on H.R. 5164 is spelled out in his dissenting views statement at the end of the HGOC Report.

4. Our next goal is to have the Senate accept the House version of the legislation and thus avoid a conference on the differences between S. 1324 and H.R. 5164. We already have the support of the SSCI. However, Senator Orrin Hatch (R., UT) has placed a hold on H.R. 5164 when it reaches the Senate. Senator Hatch is upset by the lack of HGOC action on S. 774, the government-wide FOIA bill, which he has sponsored the last two Congresses. His hold on our bill, which contains the (b)(3) amendment Subcommittee Chairman Glenn English (D., OK) added on, gives him leverage in discussing action on S. 774 with Chairman English. A meeting took place yesterday between Chairman English, Representative Thomas Kindness (R., OH), Ranking Minority Member of the Subcommittee, and Senator Hatch, along with their respective staff. We understand the meeting was cordial and progress was made on the issue of S. 774. Therefore, we are hopeful that next week will bring word that Senator Hatch is withdrawing his hold.

5. Congress is scheduled to adjourn 4 or 5 October. As soon as the hold on the bill is removed, we will be working closely with the SSCI, Senator Baker's staff, and White House legislative staff to schedule the bill for a Senate vote. It is possible we will seek to pass the Senate by unanimous consent since S. 1324 was passed under this procedure last November. We will keep you advised.

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Attachments

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